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Perchlorate BMP Draft Language  
September 16, 2005

## Chapter 33. Management of Perchlorate Materials

### Article 1. General

#### § 67384.1 Scope

(a) This chapter establishes the requirements for managing perchlorate materials as described in section 67384.2

#### § 67384.2 Applicability

(a) As of July 1, 2006, the requirements of this chapter shall apply to all persons managing perchlorate materials as described in section 67384.3, except those listed in subsection (b) of this section.

(b) The requirements of this chapter do not apply to the following perchlorate materials:

1. Perchlorate materials managed as a hazardous waste in compliance with all applicable requirements of California hazardous waste law;
2. Contaminated media regulated under an order pursuant to Health and Safety Code (HSC) chapter 6.5 or chapter 6.8, Water Code;
3. Perchlorate materials containing less than six (6) parts per billion (ppb) of perchlorate;
4. Consumer goods manufactured in California prior to, but no later than December 31, 2006, and consumer goods transported into California prior to, but no later than to December 31, 2006; and
5. Food and pharmaceuticals.

#### OPTIONS:

Exempt cleanups under CERCLA/Superfund? Under local authority?

Exempt combustion residuals of pyrotechnic perchlorate materials.

Exempt perchlorate-containing water resulting solely from treatment with a sanitizer, disinfectant, or bleach.

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## **§ 67384.3 Definitions**

The following definitions shall apply to the terms used in this chapter:

“Perchlorate material” as defined in Health and Safety Code 25210.5 is all perchlorate-containing materials including perchloric acid and perchlorate compounds. “Perchlorate material” is understood to include all forms of matter, goods, and products and shall not be limited by other statutory or regulatory definitions of “material”.

“Managing perchlorate materials” shall include generation, storage, transportation, manufacture, processing, fabrication, usage, treatment, spill response, disposal, and discharge.

“Household” means a private residence. For the purpose of this section, household does not mean a hotel, motel, bunkhouse, ranger station, crew quarters, campground, picnic ground, or day-use recreation facility.

“Water-resistant packaging”

“Contaminated media”

“Consumer goods” (includes business usage of consumer sized commodities)

“Consumer commodity”

“Consumer fireworks”

“Display fireworks”

“CUPA”

“Pyrotechnic residuals” (ashes)

“Fallout zone”

“Best Management Practice”

“Packaging”

“Household waste”

“Business” (equivalent to HSC, chapter 6.95)

“Temporary location”

“Pharmaceuticals”

**§ 67384.4 Labeling requirements for Perchlorate Materials**

(a) Persons who manufacture perchlorate materials in California, repackage perchlorate materials in California, distribute perchlorate materials within California, or ship perchlorate materials into California shall ensure that the perchlorate materials are properly labeled. Labels shall be applied conspicuously on the exterior of all shipping packages and on consumer packages. All perchlorate material, except those materials listed in subsection (b) of this section, shall be labeled or marked clearly with the following, "Perchlorate Material – Environmental Hazard – special handling and disposal restrictions may apply, See [www.dtsc.ca.gov/perchlorate](http://www.dtsc.ca.gov/perchlorate)".

(b) The requirements of this section do not apply to the following perchlorate materials:

1. Household waste;
2. Perchlorate-containing water resulting solely from treatment with a sanitizer, disinfectant, or bleach;
3. Perchlorate materials used or maintained in a facility or temporary location in which all personnel handling the perchlorate material have received instruction on, at least annually, and comply with the perchlorate Best Management Practice requirements of this chapter; and
4. Perchlorate materials which are accompanied with a Material Safety Data Sheet that includes the reference to perchlorate Best Management Practices of this chapter.

## DRAFT DRAFT DRAFT

### **§ 67384.5 Packaging requirement for perchlorate materials**

(a) Each package used for the containment of perchlorate materials under this section, unless contained as specified in section 67384.6, shall:

- (1) be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incidental to handling, there will be no identifiable (without the use of instruments) release of perchlorate materials to the environment; and
- (2) be water-resistant.

#### OPTIONS:

Should an appendix listing equivalent packaging standards be included?

**§ 67384.6 Containment requirements for perchlorate materials**

(a) Unless listed in subsection (b) of this section, perchlorate materials not packaged as specified in section 67384.5, shall be contained in weather resistant structures with floors that are:

- (1) constructed of materials that are compatible with perchlorate materials;
- (2) adequately water-resistant to prevent seepage into or out of the containment structure;
- (3) devoid of drains that release to the environment; and
- (4) of adequate strength to support the required loads.

(b) Containment requirements specified in this section shall not apply to the following perchlorate materials:

- (1) Perchlorate-containing water resulting solely from treatment with a sanitizer, disinfectant, or bleach; and
- (2) Display fireworks when managed under the direct supervision of personnel that have received training, at least annually, on perchlorate Best Management Practice requirements of this chapter.

OPTIONS:

Exempt consumer goods stored or used, including consumer fireworks, flares, pyrotechnics, model rockets, ammunition, blasting agents, etc.

Exempt consumer commodities/household products.

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## § 67384.7 Notification requirements for perchlorate materials

(a) Any business managing perchlorate materials in the course of their operations, shall within thirty days after initial handling of perchlorate materials, or on or before January 1, 2007 whichever comes later, submit to the Department a notification containing the information specified below.

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## DRAFT DRAFT DRAFT

(b) Electronic notifications submitted under subsection (a) shall be submitted to [www.dtsc.ca.gov](http://www.dtsc.ca.gov).

(c) Written notifications submitted under subsection (a) shall be submitted to the Department by certified mail, return receipt requested to: Department of Toxic Substances Control, Hazardous Waste Management Program, Regulatory and Program Development Division, P.O. Box 806, Sacramento, CA 95812-0806, with "Attention: Perchlorate Materials BMPs" prominently displayed on the front of the envelope.

### OPTIONS:

Exempt only households, but not small quantity business handlers less than or equal to 500 pounds.

Eliminate the notification requirement and rely only on reporting.

Eliminate the BMP notification requirement, the reporting requirement, and recordkeeping requirements for perchlorate materials and rely only on business plans for hazardous materials.

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## § 67384.8 Reporting requirements for perchlorate materials

(a) Any business managing perchlorate materials in the course of their operations, on or before January 1, 2008 and annually thereafter, shall submit to the Department, by certified mail, with return receipt requested, a report containing the information specified below.

Business Name			
Location Address			
Mailing Address			
Business NAICS			
Nature of Business			
EPA ID Number			
Contact Name			
Title			
Mailing Address			
E-mail Address			
Phone Number			
List of Perchlorate Materials Handled:			
<b>Please indicate the approximate quantities for the previous calendar year. Include the weight of the perchlorate material, not the weight of the perchlorate contained in the material:</b>			
<b>How much perchlorate materials... does your business manufacture or process?</b>	None	Amount per year	Units of measure
does your business use to manufacture or produce a product?			
are products used by your business?			
are laboratory reagent used by your business?			
are stored by your business?			
are offered for sale or procurement by your business?			
are sold as products by your business?			
are generated as waste?			
are treated or recycled onsite?			
are treated or recycled offsite?			
are discharged under a permit issued by a California RWQCB?			
are sent for offsite disposal?			



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(b) Electronic reports submitted under subsection (a) shall be submitted to [www.dtsc.ca.gov](http://www.dtsc.ca.gov).

(c) Written reports submitted under subsection (a) shall be submitted to the Department by certified mail, return receipt requested to: Department of Toxic Substances Control, Hazardous Waste Management Program, Regulatory and Program Development Division, P.O. Box 806, Sacramento, CA 95812-0806, with "Attention: Perchlorate Materials BMPs" prominently displayed on the front of the envelope.

### OPTIONS:

Limit the reporting requirement to businesses that manufacture or use solid propellant, pyrotechnics, fertilizer, flares, fireworks, laboratory reagents, commercial explosives, and blasting agents.

Exempt households, small quantity business handlers less than or equal to 500 pounds, swimming pools, and water treatment systems.

Offer Confidential Business Information submittals.

## DRAFT DRAFT DRAFT

### **§ 67384.9 Special Management for perchlorate materials**

(a) Road safety flares shall be used in a manner that minimizes releases of perchlorate to the environment. As many of the following practices should be implemented to the extent practical without impeding immediate safety considerations:

- (1) Flares should be allowed to burn completely;
- (2) Flares that are manually extinguished by tapping the burning end, shall be closed by replacing the original cap back onto the flare;
- (3) Flares that are manually extinguished by dowsing the flare in a container of water, shall collect the wet flares and the water for proper disposal;
- (4) Flares that are partially burned should be collected as soon as is possible;
- (5) If flares can not be promptly collected, flares should be protected from standing water;
- (6) Collected flares should be placed into a compatible container;
- (7) Waste flares shall be collected and managed in accordance with all applicable hazardous waste laws;
- (8) Flares chosen for use should have the minimum burning time (10, 15, 20, or 30 minutes) necessary to ensure safety during a highway incident; and
- (9) For flare users that routinely use flares in the normal course of their jobs, all personnel handling the perchlorate material should receive instruction, at least annually, on the perchlorate Best Management Practice requirements of this chapter.

(b) Marine safety flares shall be used in a manner that minimizes releases of perchlorate to the environment. The following practices should be implemented without impeding immediate safety considerations:

- (1) Waste flares shall be collected and managed in accordance with all applicable hazardous waste laws and shall not be:
  - (A) disposed in a municipal landfill;
  - (B) disposed into the water; or
  - (C) discharged as a means of disposal.

## DRAFT DRAFT DRAFT

(c) The solid residuals of display fireworks measuring greater a centimeter within the expected fallout area shall be collected the day after the firework display.

(d) For releases of non-hazardous perchlorate materials to the environment, a handler of perchlorate materials:

- (1) Shall immediately take action to stop and contain all releases of perchlorate material;
- (2) Shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of this division. The handler is considered the generator of the material resulting from the release, and shall manage it in compliance with chapter 12;
- (3) Shall collect to the extent practical any material resulting from the release;
- (4) Shall decontaminate the spill area; and
- (5) Should prevent or minimize releases to storm sewers.

### OPTIONS:

Unused consumer fireworks may be hazardous waste if disposed and are subject to hazardous waste requirements. If all or most of the household hazardous waste collection centers can accept these perchlorate materials, we can make this a BMP.

## DRAFT DRAFT DRAFT

### **§ 67384.10 Discharge/Disposal Restrictions for perchlorate materials**

(a) Solid non-hazardous perchlorate containing waste shall be disposed of in either a hazardous waste landfill, or in a composite-lined portion of a non-hazardous waste landfill that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993.

(b) Non-hazardous liquid perchlorate containing waste shall only be discharge as follows:

(1) To a publicly owned treatment works (POTW) in accordance with all applicable industrial waste discharge requirements issued by the agency operating the POTW. The facility owner or operator shall inform the agency operating the POTW of the time, volume, content, characteristics and point of the discharge; or

(2) Require that non-hazardous liquid perchlorate wastewater be in accordance with waste discharge requirements issued by a Regional Water Quality Control Board; or a National Pollutant Discharge Elimination System (NPDES) permit.

### OPTIONS:

Require the leachate from the landfill units and the groundwater monitoring wells are monitored for perchlorate and require the results of the monitoring to be submitted to the Regional Water Quality Control Board.

Require monitoring for perchlorate when non-hazardous liquid perchlorate wastewater are discharged under a permit issued by a Regional Water Quality Control Board; or a National Pollutant Discharge Elimination System (NPDES).

Require POTW to monitor effluents for perchlorate.

Exempt agricultural uses when applied to land (contaminated water, fertilizers, etc.)

Exempt household waste

## ALTERNATIVES

### § 67384.XX Perchlorate Restrictions

(a) On or before January 1, 2008 and every 5 years thereafter, a business that uses perchlorate-containing fertilizer, road safety flares, commercial explosives, or commercial blasting agents shall submit to the Department a Product Alternatives report which must include both a product substitution analysis; and a description of pollution prevention measures taken in the previous calendar year.

(b) On or before January 1, 2008 and every 5 years thereafter, a business that uses perchlorate-containing display fireworks, pyrotechnics, or solid rocket motor in amounts greater than 100 pounds in one month shall submit to the Department, environmental monitoring results of soil and water within the fallout zone. At minimum, sampling should be done the day after such use, but not more than twice a year and shall include at least six (6) samples.

(c) Pursuant to HSC section 25210.7, a business may not manage perchlorate materials unless the management complies with the best management practices specified in the subsections (a) and (b) above.

### OPTIONS:

Allow a variance or specific exemption from any of these requirements which may be authorized by the CUPA or the Department if a handler can demonstrate that site specific BMP can be used in lieu of any of these requirements for the protection of groundwater and surface water.

Exempt law enforcement agencies

Exempt requirements that affect national security

Exempt specific uses if required by federal law.